

SENATE BILL REPORT

SB 5107

As Reported by Senate Committee On:
Agriculture, Water, Natural Resources & Parks, February 2, 2023

Title: An act relating to increasing the cap on gross sales for cottage food operations.

Brief Description: Increasing the cap on gross sales for cottage food operations.

Sponsors: Senators Shewmake, Frame, Liias, Nguyen, Randall, Rolfes and Salomon.

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 1/19/23, 2/02/23
[DPF-WM, DNP, w/oRec].

Brief Summary of Bill

- Increases the annual cap on gross sales for cottage food operations from \$25,000 to \$50,000.
- Requires a review and increase of the cap every two years based on the average consumer price index for the Seattle, Washington area.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Majority Report: Do pass fail and be referred to Committee on Ways & Means.
Signed by Senators Salomon, Vice Chair; Rolfes, Shewmake and Stanford.

Minority Report: Do not pass.
Signed by Senator Muzzall, Ranking Member.

Minority Report: That it be referred without recommendation.
Signed by Senators Short, Wagoner and Warnick.

Staff: Jeff Olsen (786-7428)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: Any person operating a food processing plant or processing foods for retail sale must obtain a food processing plant license from the Washington State Department of Agriculture (WSDA). License fees are set in statute, and based on gross annual sales. Certain establishments licensed under other WSDA programs, including the state cottage food program, are exempt from the food processor plant license requirement.

Under the state cottage food program, a person may produce certain non-hazardous food products in a home kitchen for direct sale to a consumer. In order to operate a cottage food business, a person must obtain a cottage food permit from the WSDA. Examples of products that may be produced under a cottage food permit are baked goods, jams, jellies, fruit butters, and preserves. Annual gross sales for a cottage food business is capped at \$25,000. If the gross sales of a cottage food business exceeds \$25,000, the business must either acquire a food processor's license, or cease operations.

Summary of Bill: The cap on annual gross sales for cottage food products is increased from \$25,000 to \$50,000. The WSDA must review and increase the cap every two years by expedited rulemaking based on that year's Consumer Price Index for the Seattle, Washington area as compiled by the Bureau of Labor Statistics, United States Department of Labor.

The WSDA must employ sufficient full-time equivalent staff to ensure timely processing of cottage food applications, and provide improved service to cottage food businesses.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Cottage food producers who are selling expensive items such as wedding cakes are hitting their gross sales cap. This bill will increase the cap and allow them to sell more products and be more innovative in the industry. One farmers' market in Toledo has seen a 25% increase in revenue in the last three years, and expects an additional 10-12% increase in the next season. Due to inflation, sellers have had to increase their prices which makes them reach their sales cap sooner without an increase in income. States who do not have a sales cap or have food freedom bills have not reported any issues with food-borne illnesses. Small business owners often can't afford renting a professional kitchen or childcare, and cooking at home allows them to avoid high overhead costs and more flexibility and accessibility. A higher sales cap will allow sellers to earn a living wage and save for possible expansions. Raising the cap will support local, entrepreneurial women and can provide a springboard for small business development.

OTHER: A higher sales cap will increase participants in the cottage food program. Without additional resources, implementing this change will be difficult for the Department of Agriculture. To better handle processing, which currently takes eight to ten weeks, the fiscal note includes additional staff for the WSDA to permit improvements that are not included in the Governor's budget. WSDA would like to amend the use of CPIs to every four years instead of two years.

Persons Testifying: PRO: Senator Sharon Shewmake, Prime Sponsor; Jackie Ferry; Carol Berch.

OTHER: Kelly McLain.

Persons Signed In To Testify But Not Testifying: No one.